

## SENATE BILL No. 152

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-12.

**Synopsis:** Employment absence for volunteer firefighters. Prohibits an employer other than the state from disciplining an employee who is a volunteer firefighter for being absent from employment when the employee is responding to a fire or an emergency call. Allows a civil action against an employer who disciplines an employee for this reason. Specifies that the absence is not a violation of the ghost employment statute and that the supervisor of the employee who has authorized the absence has not committed ghost employment. Authorizes an employer to request proof that the employee was engaged in fire or emergency activity when absent, and provides that the employer is not required to pay salary or wages for the time the employee was absent.

**Effective:** July 1, 2005.

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### Antich-Carr

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January 4, 2005, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 152

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-8-12-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this  
3       chapter:

4       **"Employee" means a person in the service of another person**  
5       **under a written or implied contract of hire or apprenticeship.**

6       **"Employer" means:**

7               (1) a municipal corporation;

8               (2) an individual or the legal representative of a deceased  
9               individual;

10              (3) a firm;

11              (4) an association;

12              (5) a limited liability company;

13              (6) an employer that provides on-the-job training under the  
14              federal School to Work Opportunities Act (20 U.S.C. 6101 et  
15              seq.) to the extent set forth in IC 22-3-2-2.5; or

16              (7) a corporation or its receiver or trustee;

17       **that uses the services of another person for pay.**

2005

IN 152—LS 6294/DI 96+



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"Nominal compensation" means annual compensation of not more than twenty thousand dollars (\$20,000).

"Responsible party" has the meaning set forth in IC 13-11-2-191(d).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;

(2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and

(3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

SECTION 2. IC 36-8-12-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. (a) This section does not apply to an employee of the state subject to IC 4-15-10-7.

(b) This section applies to an employee of a political subdivision who:

(1) is a volunteer firefighter; and

(2) has notified the employee's employer in writing that the employee is a volunteer firefighter.

(c) The political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; or

(2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work.

(d) The political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c)(1) or (c)(2) to present a written statement from the fire chief or other officer in charge of the volunteer fire department at the time of the

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1 absence indicating that the employee was engaged in emergency  
2 firefighting or emergency activity at the time of the absence.

3 **(e) This section does not require an employer to pay salary or**  
4 **wages to an employee who has been absent from employment**  
5 **within the meaning of subsection (c) for the time away from the**  
6 **employee's duty station.**

7 **(f) A public servant who permits or authorizes an employee of**  
8 **a municipal corporation under the supervision of the public**  
9 **servant to be absent from employment or to leave the employee's**  
10 **duty station in order to engage in emergency firefighting or**  
11 **emergency activity under this section is not considered to have**  
12 **committed a violation of IC 35-44-2-4(b).**

13 ~~(e)~~ **(g)** An employee who is disciplined by the employer in violation  
14 of subsection (c) may bring a civil action against the employer in the  
15 county of employment. In the action, the employee may seek the  
16 following:

- 17 (1) Payment of back wages.
- 18 (2) Reinstatement to the employee's former position.
- 19 (3) Fringe benefits wrongly denied or withdrawn.
- 20 (4) Seniority rights wrongly denied or withdrawn.

21 An action brought under this subsection must be filed within one (1)  
22 year after the date of the disciplinary action.

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